

gony message to the Senate and may determine to do so tomorrow, which will be a working day this week.

It was the most important session the Senate had held this year. Senator Agnew did not want to move his bill amending the Penal Code, but when Senator Grady objected to having the bill temporarily laid aside, after a conference with Senator Armstrong, Senator Agnew consented to take up the bill and it was debated for eight hours. The ground in the Senate chamber was crowded with spectators and the floor of the Senate chamber that spectators could crowd in was occupied.

Sensor Agnew made a surprising statement in closing the debate. He said that the Senators had taken the oath of office to support the Constitution and they could not do so and vote against his bill. Senator Graham (Massachusetts) asked if the Governor had not been recent a year ago in not recommending this legislation.

"I have spoken with the Governor about this," replied Senator Agnew, "and he informs me that last year he was on the point of submitting a message to the Legislature on this question, but did not reach the point."

The defense of the race-track bill, in the opinion of the Senators, fell upon speeches they appealed to save the racing game. Senator Grady took occasion to criticize the Governor most severely for the position he had taken on the bill and especially for going through the State appealing to the people to force the Legislature to pass the Agnew-Hart bill. He said there was no more justification for the Governor's error in recommending the bill than for the error in recommending the bill.

"The Senate," he said, "is something more than a photograph for the chief executive and it should not be imagined under our constitutional prerogatives that the Senate should sneeze when the Governor takes snuff. I wish the Governor had been a little farther on this question at that."

As Senator Grady said this there was a sound which was suspiciously like applause, something unusual in the Senate. He paused and while doing so a messenger entered the chamber bearing a large floral horseshoe, which was placed on the desk of Senator McCarren amid the laughter of the Senators.

"I hope there hasn't been any mistake in placing the horseshoe," remarked Senator Grady.

It was a token from the Kings County Democratic Club. Senator McCarren, who was the advocate of the Percy-Gray law, shuddered and wondered whether this was an omen of evil.

Sensor Grady endeavored to show that through the repeal of the Percy-Gray law, law racing in this State would be wiped out, and criticized the people who were behind the legislation.

Sensor Agnew replied that the people behind the bill were not opposed to racing, but Senator Grady replied that such a bold statement as that would be foolish, for without betting there would be no racing.

Sensor Grady took Gov. Hughes to task for saying that the Percy-Gray law was an evasion of the Constitution.

"He belittles himself," said the Senator, "as a lawyer and as a Chief Executive when he says that the public conscience will not tolerate such a distinction as is made by the Percy-Gray law. He would not dare to utter those words before a law association, for he can go through his Penal Code and find a hundred similar distinctions."

Sensor Grady accused the Governor of trying to belittle the minds of laymen regarding the provisions of the law, and referred to the decision of the Court of Appeals declaring the law unconstitutional, and acted within its rights and had not evaded the Constitution in passing the Percy-Gray law. He wanted to know why the Governor was silent on stock gambling, and said that it was Wall Street that was ruining the people of the country and not race-track gambling.

"We hear," he continued, "that the Governor will call an extra session if we do not pass these bills or pass them as he wants them. I would like to look in the face of a Governor that dares to carry out that threat. If the Governor continues to interfere in the prerogatives of the Legislature he may some time be in the position of the man who took liberties with the hind legs of a mule."

Sensor McCarren followed with an explanation of what the Percy-Gray law did and the benefits that had arisen from it. He said that if the law was repealed, the State would spring up all over the State, for racing would go on in other States. He enumerated the tracks that are in operation while the Metropolitan tracks are closed.

"As a result of these winter tracks," he said, "you can go now and could go for the past six months into one hundred pools in New York City and let as much as you wanted to on races at these tracks. This bill should be entitled an act for the propagation of poolrooms."

Sensor Agnew wanted to know from Senator McCarren why it was that Police Commissioner Bingham had said that while the Metropolitan tracks were running the New York City Police Department had more trouble than it could handle in keeping the city from being a gambling city. He asked if the Commissioner had broken up any of the Black Hand bands or had prevented the city from being terrorized by burglars and thieves.

"The Police Commissioner of New York City," replied Senator McCarren, "hasn't been in the city long enough to know his way around town. The Police Commissioner as a public official is the greatest joke in the United States. The police administration of New York City is a farce, an absolute farce. It isn't safe for a woman to go on any of the streets of either of the Fifth avenue after 11 o'clock at night. He declared that all that Police Commissioner Bingham thought his force was for was to suppress some law that was ruining a bet or to run a book, and he asked if the Commissioner had broken up any of the Black Hand bands or had prevented the city from being terrorized by burglars and thieves."

Sensor McCarren said that he would much prefer to have gambling made a felony, declaring that there was not a law in New York that would convict a man for gambling, for the penalty would be too severe for the offense. He would like to have gambling a criminal punishment, and said that if the Senators would listen to their own convictions there would be but few who would vote to repeal the law. "There are many who can be convinced," he said, "but there are a great many who are not. They are thinking of the circular they received this morning. Why, I received one myself this morning, and from a settlement where I am an Assembly district, but he is such a poor writer I can't make out his name."

The Senator read the letter, which was a request that he vote for the Agnew-Hart bill.

"But," said Senator Agnew, "he has a P. S. attached and he says 'I am not a humorist. The reason I write this is to please a young lady.'"

Sensor Fuller (Dem., Kings) spoke of the inconsistency of having one form of punishment for gambling from now until September 1 and another form after that. He thought the Penal Code amendment should take effect immediately.

Sensor O'Neil (Rep., Franklin) spoke in favor of the repeal of the Percy-Gray law and said that the Legislature should also take care of Wall Street.

Sensor Cassidy (Rep., Schuylers) had everybody guessing as to which way he was going to vote. His attitude on the final passage of the bill is still in doubt, but he said he would vote to have the Penal Code amendment take effect on September 1. Two years ago he introduced bills repealing the Percy-Gray law, and Senator Agnew wanted to know why he had not then taken effect immediately.

"I will try to enlighten the Senator," replied Senator Cassidy, "for his knowledge of law is limited and is still more limited on other things."

He said that the Agnew bill made the punishment for gambling too severe and left no discretion in the court, while his (Cassidy's) bill had made gambling a misdemeanor. Senator Cassidy discussed the constitutional provisions concerning gambling and wanted to know if the Percy-Gray law did not meet the requirements of section 9 of Article I of the Constitution.

"Our Governor," he said, "sometimes makes

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mistakes regarding the Constitution. Last year he drove through the Legislature with a bill to amend the Constitution and the Court of Appeals promptly declared it to be unconstitutional.

Sensor Hinman (Rep., Broome) defended the Governor. He had declared time and time again that the Percy-Gray law was an evasion of the Constitution. Senator Raines interrupted several times to ask questions which indicated that Raines was well satisfied with the Percy-Gray law. Senator Hinman insisted that the Percy-Gray law did not provide a sufficient punishment to fit the crime of gambling.

"If that is so, then where in the statute books is there an appropriate law to punish crime?" demanded Senator Raines.

Sensor Hinman said that the Percy-Gray law had not diminished gambling and that the Constitution of 1846 put it up to the Legislature to enact laws that would prevent gambling.

At to-night's session Senator McCarren talked at some length to answer the arguments of Senator Hinman. He contended that the bills should not pass because they would be non-enforceable, and pointed to several reform measures that had been enacted into laws and had proved dead letters.

Sensor Grady made another attack on Wall Street and said that the reason gambling was so rampant in this State was because it was so profitable and fashionable. He declared that if he was accused of saying harsh things, he would tell the attempt to prevent racing in this State to be a miserable, hypocritical movement.

Sensor Grattan said that he would vote to have the penal code amendment take effect September 1, but on the final passage of the bill he probably would vote for them, Senator Taylor, who presided, declared that he voted to restore the Agnew bill to its original form and made his remarks because he was credited with having voted to amend the bill in the Senate Codes Committee.

LIQUOR BILLS REPORTED.

Amendments Made to the Whitney Bill Agreeable to All Concerned.

ALBANY, April 1.—Following a conference of representatives of brewery and real estate interests with State Commissioners of Excise and Alcoholic Control, an understanding was arrived at with relation to amendments to the Whitney bill amending the liquor tax law, the Assembly Excise Committee met this afternoon in final session and ordered reported favorably the Whitney bill. The committee made changes agreeable to all concerned, eliminating the most drastic feature, which placed a lien on the premises where liquor is sold and the excise law violated as long as the judgment against the person violating the law or his bondsmen remains unsatisfied on the record. The change recognizes the effort being made by the brewery interests to suppress dives and disorderly places.

Another amendment prohibits minors under 18 years of age from entering a bar-room, but the original provision was modified so that hotel keepers will not be liable for conviction under this section should a minor be in another room in the hotel, but not the barroom.

The Gray bill to extend the local option provision of the Raines law to cities was defeated in the committee by a vote of 6 to 5.

The Whitney bill to permit villages to vote on local option propositions as to towns do not, and to permit refusal to permit the sale of liquor in said villages by a vote of a majority of the voters, irrespective of how the town may vote on a question, was reported favorably by a vote of 5 to 4.

Another bill reported was the Whitney bill changing the fiscal year of the Excise Department from May 1 to October 1, which makes the liquor tax certificates renewable on the latter date instead of May.

The Linton bill was also reported. It provides that where fines are collected for violation of the law, half shall go to the county and half to the town, instead of all to the town.

The Williams bill, providing that in actions for civil damages for selling to intoxicated persons in violation of law the defendant shall not be allowed to plead in defence that he was selling in violation of law, was also reported favorably.

The Costello bill, to divide the liquor tax receipts on a basis of two-thirds to the city and one-third to the State, instead of half and half as now, was defeated when moved in committee and will not come out.

Gov. Hughes Entertains Gov. Wilson of Kentucky at Dinner.

ALBANY, April 1.—Gov. Augustus E. Wilson of Kentucky, who is in Albany to argue a case before the Court of Appeals, was entertained at a dinner to-night by Gov. Hughes at the Executive mansion.

The presence of Gov. Wilson in Albany came as a surprise to Gov. Hughes, who immediately made arrangements for the dinner. The guests included Gov. Wilson, Gov. Hill, Lieut. Gov. Chanler, Chief Judge Cullen of the Court of Appeals, Speaker Wadsworth, Chairman Stevens of the up-State Public Service Commission, Assemblyman Merritt, Republican leader in the lower house, Public Service Commissioner Bessie of Brooklyn, Austin G. Fox and Mr. Canfield of New York and Penno Baker of Kentucky.

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OSTEOPATH NOT A PHYSICIAN

SO CORPORATION COUNSEL SAYS—COURTS MAY DECIDE.

Board of Health Advised That It Should Not Register Osteopaths and That It Should Decline to Receive Their Death Certificates—Suggests a Test Case.

As the result of an opinion prepared by acting Corporation Counsel George L. Sterling at the request of Health Commissioner Darlington, the osteopaths of this city will probably bring a mandamus proceeding in the Supreme Court to obtain a final interpretation of the law passed last year by the Legislature legalizing the practice of osteopathy, a law which made, however, certain reservations that are objected to by the osteopaths.

The osteopaths have made a long fight to obtain the same standing as doctors of medicine, the right to issue death certificates being one of the privileges they sought most to obtain. Some time ago an osteopath of Brooklyn, Dr. Charles T. Bandel, presented a death certificate to the Board of Health, which was refused by Dr. Darlington on the ground that the law did not permit. In order that an interpretation of the law might be secured Dr. Darlington submitted a number of questions to the Corporation Counsel. The more important were:

Should a person authorized to practise osteopathy in accordance with Chapter 344 of the Laws of 1907 and who is not an M. D. be registered by the Board of Health under section 180 of the register, and has such a person a legal right to demand registration here?

Assuming a doctor of osteopathy has a legal right to register in this department as a physician, does it legally follow that the Board of Health is obliged to accept a certificate and register of death presented by such a practitioner, and is the board bound legally to issue a burial permit to bury the body of a person whose death is so reported?

Mr. Sterling in his opinion declares that the holder of a license to practise osteopathy should not be registered by the Health Department as a physician. He cites that the act defining a person who may practise medicine excludes a doctor of osteopathy. He points out that the practice of osteopathy is mentioned by the law as being entirely distinct from the practice of medicine. The statute, Mr. Sterling is of opinion, recognizes osteopathy but does not define it. Mr. Sterling says:

The present law, as we have seen, defines physician and the practice of medicine and uses significant language, "except as hereinafter stated."

After a careful reading of the statute I am of the opinion that the holder of a license to practise osteopathy should not be registered in your department as a physician. The definition of a person practicing medicine, as given by the act, excludes a doctor of osteopathy. The practice of osteopathy is mentioned as distinct from the practice of medicine. The act recognizes osteopathy, but does not define it. The result is that the holder of a license to practise osteopathy is not allowed to practise medicine except so far as osteopathy enters into the practice of medicine. The holders of such a license derive from the act no new right except the privilege of practising osteopathy, providing neither drugs nor surgical instruments are used.

I beg further to advise you that though your board may amend the Sanitary Code by requiring osteopaths to register as such in your department, they should not be considered physicians within the meaning of statutes and ordinances relating to physicians in the death of a person.

The foregoing has been written from a legal standpoint, but whether or not it is correct from a medical point of view, are other reasons of great importance why, in my opinion, the Board of Health should decline to treat osteopaths as in all respects regular physicians until the matter has been passed upon by the courts. The question is one of great importance, not only to the large body of regular physicians, but also to the community as a whole. The proposed innovation should therefore not be allowed except after a hearing of all persons interested and after the whole matter has been thoroughly investigated and passed upon by the courts.

I think it would be going altogether too far if the Board of Health, either on its own responsibility or as the result of advice from the Corporation Counsel, might give, should take the step proposed. It is very easy for the osteopaths to take action in court, perhaps by way of an application for a writ of mandamus, which would bring the whole question before the courts, and where to doubt all persons could be heard. Should such a proceeding be brought it would seem to me that the various medical organizations in the city should be informed, so that they could make application to be heard before the court, and their views and efforts to suppress the subject could be presented to the court and passed upon judicially.

Dr. Darlington said yesterday afternoon that he had no doubt that osteopaths would take the action outlined by Mr. Sterling—application for a writ of mandamus, and would compel the board to accept their death certificates and to register them as physicians. In that event Mr. Sterling's further suggestion that the medical organizations be officially notified would be carried out by his department.

UNEMPLOYED RIOTING AGAIN.

Mob Assaults Italians at Hammerstein's Philadelphia Opera House Site.

PHILADELPHIA, April 1.—Rioting about the old Harrah mansion, the site to be occupied by Oscar Hammerstein's Philadelphia opera house, was renewed this morning and kept up at intervals all day by more than 1,500 unemployed men, whites and negroes, who demanded work and defied the police to disperse them.

After they had surged about the building for three hours the men of other races turned upon the Italians. From then until 4 o'clock, when two riot calls were sent in, every Italian who appeared was mobbed, dozens were injured and one was stabbed in the face.

The Seagoers.

Sailing to-day by the White Star liner Celtic, for Queenstown and Liverpool: Lady Boughie, Mrs. Frank Miller, Ashton Lee, the Rev. Charles H. Yarnum, Mrs. Mabel Yarnum Whitman, Mr. and Mrs. H. B. Tysford, Thomas Sutcliffe, S. Van Patten, Lieut.-Col. G. B. Burland, Mr. and Mrs. Henry H. Carter and Archibald Cameron.

Arrivals by the North German Lloyd steamship Kaiser Wilhelm der Grosse, from Bremen, Southampton and Cherbourg: Gov. A. E. Sprague of Montana, Henry M. Whitney, Harrison W. Ott, Major A. Montgomery, and Dr. Friedrich Fischer, secretary of the German Society for Fisheries, who will take back to Germany 250,000 rainbow trout eggs to stock depleted streams.

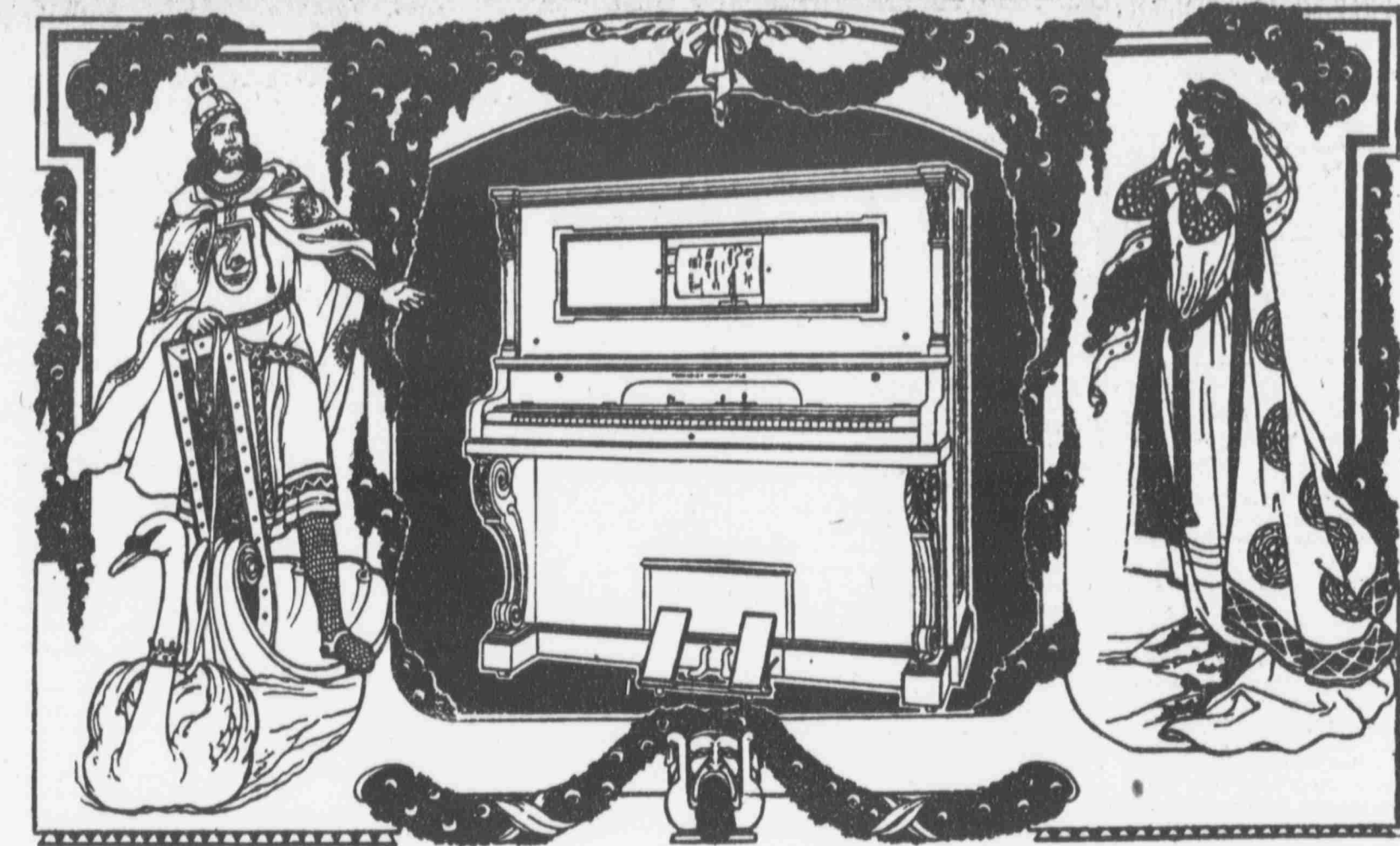
COL. HARVEY SAILS.

Leaving Behind a Few Thoughts on the Political Situation.

Col. George Harvey sailed for Europe yesterday on the Mauretania. He felt certain that Taft would be nominated, with Hughes probably as a running mate. The Democratic ticket, he said, should be Woodrow Wilson and John A. Johnson. Asked which would win, he said:

"There are 1,200,000 men out of employment to-day. In November the number will be doubled."

Col. Harvey considered that the political situation had undergone a complete change in the last month, due largely to President Roosevelt's latest message. The keynote of the Republican platform now must be the right and necessity under existing conditions of special interests to combine for self-protection under the supervision of the Federal Government. The Democratic doctrine, in the event of Mr. Bryan's nomination at any rate, would consist of the same hue and cry that had proven so popular—smash the combine and extricate trusts and trust and branch. No issue could be more clearly defined and none other was likely to out any figure.



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DE SAGAN MAY SAIL TUESDAY.

Not Ready to Admit That He is to Marry Mme. Gould—She is Better.

The Prince de Sagan said yesterday that he might sail for Europe next Tuesday on the Kaiser Wilhelm II. instead of waiting for the Corpesse on Thursday.

Mme. Anna Gould is expected to sail for France on La Provence if the attack of bronchitis from which she has been suffering will permit her. Mme. Gould is still confined to her bed, although her condition is somewhat improved.

The Prince repeated yesterday his denial that he was engaged to be married to Mme. Gould, but reporters who talked with him felt that he had confidence that his visit to this country would result in their wedding.

Edwin V. Jones, attorney for Mrs. Tyler Morse, asked THE SUN last night to print this statement:

"Mrs. Morse has read an interview attributed to her husband, in which there was a disagreement in the Gould family concerning the Prince de Sagan and that Mme. Gould came to the St. Regis because thereof."

Mrs. Morse had no such interview and made no statement. From her own information such statements are untrue. Mme. Gould was taken ill while talking on the telephone and has been unable to leave her room since. Mrs. Morse knows of no existing engagement between Mme. Gould and the Prince de Sagan and would not be the one to announce it if it were true.

"Mr. Jones was further authorized by Mme. Gould to say that there has been no disagreement and concurs in the statement made by Mrs. Morse in the regard."

An order directing George and Helen Gould, as receivers of the surplus income of Mme. Anna Gould, to pay to Judge John F. Dillon, the Gould family's counsel, \$2,000 as fees and disbursements for services rendered Mme. Gould in Paris in April and May, 1907, was signed yesterday by Judge Lacombe of the United States Circuit Court.

The court further ordered George and Helen Gould, as receivers, to pay to George Gould individually a sufficient number of forty-year 4 per cent. gold bonds of the United States Pacific Railway at a price of 90 and interest to reimburse him for an expenditure of \$50,000 made to Edmond Kelly in two equal installments, the first on May 8, 1907, and the second on November 27, 1907, for legal services rendered to Mme. Gould.

The order just issued is an echo of Mme. Gould's divorce suit against her former husband, Comte Boni de Castellane, and the fees with which the order is concerned are for services rendered in that litigation.

ROW OVER JERSEY P. S. BILL.

Senator Colby Bolts Caucus Measure Passes Senate, 17 to 3.

TRENTON, April 1.—Following a Republican caucus which Senator Everett Colby bolted, the Senate to-day passed the Robins public utilities bill by a vote of 17 to 3. Those against it were Senators Colby, Harrison and Hinchcliffe. The Robins bill does not give to the proposed commission power to fix rates and in other respects is much less drastic than the measure which was recently passed by the House.

For these reasons it was opposed by Senator Colby, who with several of the Democratic Senators made a hard fight to have it amended. It is doubtful if the House will concur in the bill as it passed the Senate and almost certain that the Senate will not concur in such a measure as that adopted by the House.

The passage of the Robins bill was decided upon in caucus by a vote of 8 to 4. When Senator Colby left the caucus he declared frankly that he had bolted because it was gathering the refinement of thought and speech were denied. He said he was unwilling to permit any set of men to bind him to stand for what is in direct conflict with his views and a violation of the pledge made by the party to the people.

The Senate also passed a civil service bill after it had been amended by the Democrats. It wanted an elective instead of an appointive commission. In this case the situation is analogous to that of the public utilities bill, the House having passed a measure providing for an elective commission and the Senate having rejected the measure in this form.

The House adopted the proposed amendments to the Constitution making the term of the Governor and State Senators four years instead of three, of the Assemblymen two years instead of one and permitting amendments to the Constitution every two years instead of only once in five years and at a regular interval of a special meeting. The House adopted a resolution providing that no bills should be introduced after to-morrow, except by unanimous consent. A determined effort will be made to secure final adjournment next week.

Among the visitors at the State House to-day were the Marquis and Marchioness Headford of Headford Park, Ireland. They came here in automobile with P. F. Collier of New York and Father James Reynolds of Red Bank. The visitors had the privilege of the floor of both houses. The Marquis made a brief speech in the Senate in which he praised America for its faith in the cause of Home Rule for Ireland.

It was announced to-night that William Jennings Bryan would probably visit Trenton on April 13. He has been invited to luncheon by Gov. Fort and ex-Mayor Frank S. Katzenbach, Jr., is arranging for a reception at the Democratic league.

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HUNGARY'S PROMINENT WATER

ARMENIAN HAS TURK—ARRESTED

On Charge of Threatening His Life—Then He Plays Possum.

Levon Harpootian, an Armenian rug merchant of 34 Union Square, caused the police to go as Bakir Roman, a laborer of 319 East Twenty-eighth street, on a charge of threatening his life.

Harpootian got a warrant for the Turk's arrest from Magistrate Herrman in the Tombs court. He said that the Turk entered his store on Tuesday and made threats against him.

Harpootian, who lives in an apartment house at 569 West 150th street, wouldn't even answer telephone last night. He got home at 7 o'clock and was thereafter incommunicable.

CLOSED SUBWAY DOOR ON COP,

And When Sgt. Mallan Got Free He Plucked the Guard.

Sgt. Benjamin Mallan, who is attached to Police Commissioner Bingham's office, tried to board a northbound subway express at Fourteenth street at 5:30 o'clock last night, and according to the story he told later the guard closed the door on him, pinning him so that for a time he could get neither inside nor out. He finally got in and arrested the guard on a charge of assault and battery.

The guard gave his name as Michael J. Smith of 81 East 114th street.

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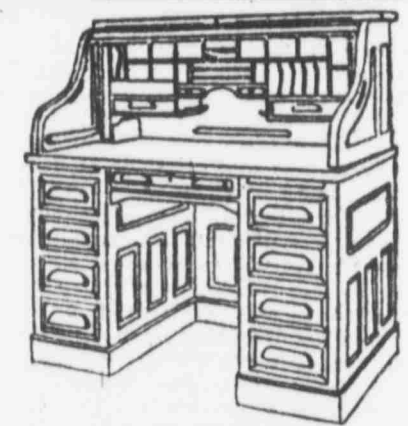
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